



Patent Litigation

Protecting valuable inventions in a highly competitive global environment has become increasingly challenging for multinational businesses. With the significant rise in patent litigation and with damages exceeding the billion-dollar mark in the US, the risks and opportunities facing companies are higher than ever. Whether enforcing your patents against others or defending you against claims of patent infringement, DLA Piper has the experience to help you succeed.

With over 130 patent litigators on the ground in key jurisdictions worldwide, DLA Piper is uniquely positioned to help companies successfully navigate their patent matters around the globe. Our team of over 70 patent litigators located in the major US cities alone, plus an additional 60 patent litigators in other key jurisdictions worldwide, know the laws, the courts and the judges in the jurisdictions where most patent disputes occur.

We often manage related patent matters in multiple US jurisdictions simultaneously, including the ITC. With our global reach, we are also accustomed to acting for clients in resolving multi-jurisdictional patent disputes in the US, Canada, Europe and Asia Pac. In particular, we have significant experience with cross-border patent litigation involving the US, Canada, France, Germany, Italy, the Netherlands, Poland, Turkey, UK, China and Australia, as well as other countries worldwide. We are highly adept at developing and implementing global patent enforcement strategies for our clients and strategically selecting venues to increase their probability of success.

Our deep technical bench includes lawyers with advanced degrees and/or experience in most technical areas, especially electronics, computer science, telecommunications and wireless, pharma and biotech, medical devices, chemical engineering, materials and automotive – so we can quickly understand your technology and industry.

We try cases – and we win them. Since we are trial lawyers, we develop potential trial themes early and use them to evaluate the evidence by both parties. We are known for our ability to explain complex technologies to judges and juries. Since our opponents know we are not afraid to go to trial, we are very often able to reach a favorable settlement. We also have a leading appellate practice, and have helped clients hold on to their victory or reverse any adverse result. Additionally, we have extensive experience handling inter partes reviews (IPRs) and post-grant reviews (PGRs) in the US, as well as supporting clients in opposition proceedings before the European Patent Office.

We do not represent patent assertion entities ('patent trolls'). We have deep experience opposing such entities and have developed successful, cost-effective litigation strategies against them.

EXPERIENCE

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- Advising a global tech giant in relation to a high profile, multijurisdictional patent litigation case, our global team successfully represented our client in a 27-patent case in the Northern District of Texas and three High Court trials in the UK, resulting in a confidential worldwide settlement. This was the biggest patent case before the UK Courts in 2009 and 2010. This matter involved strategic, cross-border coordination of complex patent litigation among the US, the UK, and other jurisdictions. It also involved complex issues relating to antitrust and anti-competition claims, standard-setting claims and defences and issues concerning what constitutes a fair, reasonable and non-discriminatory (FRAND) licensing commitment in the standard-setting context.
 - Representing a data protection software client in a patent trial in the popular US District of Delaware, we won a full defense jury verdict. Our client's rival asserted that our client and the other defendants infringed two patents relating to fundamental technology for anti-virus software. Their rival had previously won a jury verdict and a permanent injunction against another anti-virus software company. However, at trial our client demonstrated that it invented the same technology years before their rival filed for its patents, and following a three-week trial before Chief Judge Gregory Sleet, the jury unanimously agreed, finding both asserted patents invalid and not infringed. In addition, the jury found all asserted claims were invalid and rendered obvious over several prior art references, including our client's own products developed years before their rival filed the claim. The lawsuit was unique in part because it involved global discovery efforts (US, UK, Israel, Czech Republic and France) and several interrelated lawsuits spanning multiple years.
 - Representing a US-based technology company as lead counsel in an ITC investigation, we helped our client prevail in an important case in which their competitor alleged that our client's SRAM chips infringed four patents. The Administrative Law Judge's Initial Determination found no violation of Section 337, finding that none of the four patents was infringed and that the Complainant had failed to establish a domestic industry as to any of the four patents. The Commission subsequently affirmed the finding of no violation on each of these grounds and additionally found the asserted claims of one of the patents invalid.
 - Representing a worldwide airline in a high profile, cross-border patent litigation matter regarding three patents and design rights protecting its innovative seating system, we secured our client's success. In a complex web of cases involving the seat manufacturer and several airlines centred around the UK, we successfully halted sales of a rival seating system which took advantage of our client's innovation. Involving legally complex issues, these cases established legal precedent on a number of matters, going all the way to the UK Supreme Court. This matter demonstrated the value of our strong global patent team, as we were able to quickly (sometimes mid-hearing) and cost effectively investigate the legal position in other countries on issues where there was no settled position in the UK, including in France, Germany, The Netherlands, Spain, Italy, Australia and the US. Our comprehensive coverage enabled us to obtain foreign case law and commentary which supported our client's position and refute mischaracterisations of the foreign law position raised against our client.
 - We successfully protected the exclusivity in Australia of one of the key products of a leading global pharmaceutical company, including obtaining an interlocutory injunction against a competitor preventing it from launching its generic products. The matter will proceed over the next year to final resolution of the infringement and patent validity issues
 - Advising a global, NYSE-listed medical technology manufacturer of a drug delivery system in patent infringement proceedings in the UK, France and Germany, relating to patents for syringe pump drivers.

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Publications

Can an AI system be named the inventor? In wake of EDVA decision, questions remain

23 September 2021

AI OUTLOOK

Artificial intelligence is notable among the new technologies posing fundamental questions about the viability of the inventor's oath.

Supreme Court Corner

September 2021

The Court chose to enhance the Director's power to review PTAB decisions directly.

The Pharmaceutical Corner

September 2021

Teva v. Amicus is the first lawsuit to test the reach of the CREATES Act. Expect more.

Austin and Washington, DC offices bolster patent litigation capabilities with new arrivals

June 2021

Jennifer Nall and Helena Kiepora have joined our Intellectual Property and Technology practice's patent litigation team.

Patent eligibility of diagnostic methods in Australia confirmed: *Ariosa Diagnostics, Inc v Sequenom, Inc* [2021] FCAFC 101

29 June 2021

For many years, the following question awaited judicial determination under Australian law: is a DNA-based diagnostic method patent eligible subject matter? The Full Court of the Federal Court of Australia has confirmed that diagnostic methods involving the practical application of "natural phenomena" can be patentable inventions in Australia.

Supreme Court Corner

June 2021

The issue at hand in *Unicolors v. H&M* turns on a question of inaccuracies in the copyright registration certificate.

The Pharmaceutical Corner

June 2021

We look at the underlying decision in *Immunex v. Sandoz* and the potential implications on pharma patent licensing strategies.

Trial by eligibility

June 2021

In the history of the United States, every single jury trial on patent eligibility under 35 U.S.C. § 101 has resulted in a defense verdict.

The impact of Brexit on Intellectual Property Law

25 June 2021

2021 is the first year in which Brexit took full effect, following the end of the transition period. It therefore continues to keep businesses busy on how to get to grips with the legislative changes resulting from Brexit.

Supreme Court Corner

30 March 2021

Numerous amici in *American Axle* urge the Supreme Court to take the case; update on *USPTO v. Booking.com*.

The Pharmaceutical Corner

30 March 2021

The opinion may render functional claiming more difficult, but functional claims that follow its guidance may still have an important role to play in pharmaceutical patents.

Eligibility guidance in the wake of *Alice*: Clarity at the examiner stage, uncertainty in the Federal Circuit

22 December 2020

Competing approaches to patent-eligible subject matter at the Federal Circuit and the USPTO.

Inventions behind the music: From Eddie Van Halen to Michael Jackson and beyond

22 December 2020

Music innovation offers fertile ground for patent protection.

Supreme Court Corner

22 December 2020

A quick look at two cases.

The Pharmaceutical Corner

22 December 2020

A precedential decision with potentially far-reaching impacts for future Hatch-Waxman litigation and generic-product launches.

Constitutional challenges to inter partes review – *Arthrex, Inc. v. Smith & Nephew, Inc.*

30 September 2020

This Appointments Clause challenge to the IPR process appears to have staying power.

Coronavirus Resource Center: Our global repository of insights and events

30 September 2020

A central repository for our reports and commentary on the legal and regulatory concerns arising from the pandemic.

Inventiveness+? Divergent theories of the "inventive concept" in patent-eligible subject matter

30 September 2020

What qualifies as an inventive concept? Even the Federal Circuit doesn't know for sure.

Supreme Court Corner

30 September 2020

A quick look at two cases - *USPTO v. Booking.com* and *American Axle & Manufacturing v. Neapco Holdings*.

The Pharmaceutical Corner

30 September 2020

In this inaugural column, we look at the implications of IPR and PGR proceedings in Hatch Waxman litigation.

Sisvel v. Haier - Willingness to license or willingness to negotiate?

9 July 2020

The German Federal Court of Justice (FCJ) handed down its first judgment on FRAND since the CJEU's landmark decision in *Huawei v. ZTE* (decision from May 16, 2015, docket no. C-170/13). This decision was long awaited with many hoping that the FCJ would align the diverging approaches of the German lower courts in interpreting the CJEU's decision.

A go-to firm for defending patent cases

30 June 2020

Recognition from *Law360*

Atlanta expands privacy capabilities

30 June 2020

Lael Bellamy's arrival bolsters our data protection, privacy and security capabilities throughout the firm.

Intellectual property rights are a renewed focus as the world looks beyond a global viral outbreak

30 June 2020

A few key IP-related considerations for companies, whether they are seeking to expand into new markets or looking to preserve their place in an existing market.

Northern California bolsters telecom and regulatory practice

30 June 2020

Regulatory and telecom attorney Kristin Jacobson has joined our Northern California office in Sacramento.

Supreme Court Corner

30 June 2020

A quick look at three cases: *Thryv, Inc.*; *Lucky Brands*; and *Romag Fasteners*.

Washington, DC grows technology capabilities with two new arrivals

30 June 2020

Marius Domokos and Justin Ilhwan Park have joined our Washington, DC practice.

The CARES Act and USPTO patent practitioner deadlines

6 April 2020

While the USPTO remains open for filing of documents and fees, Director Iancu announced that parties may be eligible for extensions of certain deadlines if their inability to meet a current deadline is due to the COVID-19 pandemic.

Are you ready for CCPA class action litigation?

30 March 2020

Many businesses may not have fully contemplated the major data breach class action litigation risk created by the California Consumer Privacy Act.

Supreme Court Corner

30 March 2020

Notable cases involve trademark protectability and federal preclusion principles.

Top franchise developments of 2019

30 March 2020

Two top franchise developments in 2019 stand out from the rest.

Top of Mind: Life Sciences

16 January 2020

Eight big topics that life sciences businesses have been thinking about and how DLA Piper has been covering those stories.

CCPA Rescue Kit arrives amid new privacy law change

19 December 2019

A series of integrated compliance offerings to help businesses begin the journey of compliance with this important new privacy bill.

Street art raises novel copyright issues – or does it?

19 December 2019

Is street art less entitled to copyright protection than are traditional art forms?

Supreme Court Corner

19 December 2019

We are watching two key cases – *Romag Fasteners v. Fossil* and *Thryv, Inc. v. Click-to-Call Technologies*.

US Congress may act again on patent reform

26 JUN 2014

Recent activity regarding patent trolls

Patent litigation heats up in the Southern District of Florida: practical implications for brand owners

26 MAR 2014

Patent litigation is on the rise nationally, with a record number of cases being filed every year. In 2013, over 6,800 cases were filed in the United States, the highest number ever and about a 10 percent increase from 2012.

Distributing patent rights between affiliates: guidelines to support enforcement rights around the world

16 NOV 2015

Considering a few issues at the outset when rights are distributed between Parent and Affiliate (or between multiple affiliates) may avoid difficulties in the future when a company wants to enforce patent rights.
